

REMARKS

The foregoing amendments and these remarks are in response to the Office Action dated May 1, 2007. This amendment is timely filed.

At the time of the Office Action, claims 1-7, 9-21 and 23 were pending. In the Office Action, claims 1-7, 13 and 15-21 were rejected under 35 U.S.C. §103(a). Claim 23 was allowed. Claims 13 and 14 were objected to as being dependent upon a rejected base claim, but would be allowable in rewritten in independent form including all of the limitations of the base claim and any intervening claims. The objections and rejections are discussed in more detail below.

I. Rejections on Art and Allowable Subject Matter

Claims 1-7, 13 and 15-21 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,101,985 to Baumann in view of U.S. Patent No. 6,692,498 to Niiranen. Applicants submit that all claims are allowable over the prior art.

Regarding claim 1, the curved surface is slightly curved in a longitudinal direction that is defined by two elongated arms that can be positioned astride a screw body. This feature is not taught by Baumann, as Baumann teaches the use of a generally conical washer plate that is curved in all directions. Baumann does not teach that the washer plate can have arms or that such arms can be positioned astride a screw body. Niiranen does not disclose or suggest a plurality of plates having C-shaped or U-shaped plates, and also does or suggest plates having unique C-shapes or U-shapes.

Additionally, claim 1 recites an enlarged flange portion and two elongated arm portions extending from the flange portion, with the arm portions defining a longitudinal direction. Neither a C-shape, U- shape or any shape taught by Niiranen involves an enlarged flange portion and two elongated arm portions that can be positioned astride a screw body.

The claimed shape is innovative and specifically suitable for the purpose of the present application. The arms are suitable for embracing a screw, whereas the flange portion is suitable for accommodating a plurality of bone fragments of the humerus. This very unique shape cannot be considered to be inherently included in the list of the shapes disclosed by Niiranen, should it be described as a typical C-shape or U-shape.

U.S. Patent Appln. No. 10/526,364
Amendment
Reply to Office Action dated May 1, 2007

Docket No. 7202-78

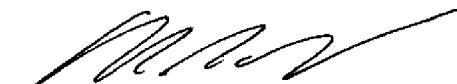
For the foregoing reasons, claim 1 defines patentable subject matter, and is in condition for allowance. Similar arguments apply to claims 15 and 23. The dependent claims are also believed allowable because of their dependence upon allowable base claims, and because of the further features recited therein.

II. Conclusion

Applicants have made every effort to present claims which distinguish over the prior art, and it is thus believed that all claims are in condition for allowance. Nevertheless, Applicants invite the Examiner to call the undersigned if it is believed that a telephonic interview would expedite the prosecution of the application to an allowance. In view of the foregoing remarks, Applicants respectfully request reconsideration and prompt allowance of the pending claims.

Respectfully submitted,

Date: 6-19-07



Mark D. Passler
Registration No. 40,764
AKERMAN SENTERFITT
Post Office Box 3188
West Palm Beach, FL 33402-3188
Telephone: (561) 653-5000